

**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554**

In the Matter of	)	
	)	
Federal-State Joint Board on Universal Service	)	
	)	
	)	
Petition of Alltel Communications, Inc. for Consent to Redefine	)	CC Docket No. 96-45
the Service Areas of Rural Telephone Companies in the State of	)	
Wisconsin	)	DA 03-3876
	)	

**COMMENTS OF CENTURYTEL, INC.**

CenturyTel, Inc. ("CenturyTel"), through its attorneys, hereby offers the following Comments in response to the Federal Communications Commission's ("FCC" or "Commission") Public Notice seeking comment in the above-referenced proceeding.<sup>1</sup>

**I. INTRODUCTION**

On September 30, 2003, the Public Service Commission of Wisconsin ("Wisconsin PSC") approved the request of ALLTEL Communications, Inc. ("Alltel") to be designated as an eligible telecommunications carrier ("ETC") for the purpose of receiving federal universal service support only.<sup>2</sup> The Wisconsin PSC also conditionally granted Alltel ETC status where Alltel requested ETC designation for only a portion of the territory of a rural telephone company, noting that Alltel must apply to the FCC for approval to redefine Wisconsin

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<sup>1</sup> *The Wireline Competition Bureau Seeks Comment on Alltel's Petition to Redefine Rural Telephone Company Service Areas in the State of Wisconsin*, Public Notice in CC Docket 96-45, DA 03-3876 (rel. Dec. 4, 2003) ("Public Notice").

<sup>2</sup> *Application of ALLTEL Communications, Inc. ALLTEL Wireless of Wisconsin RSA #1, LLC and ALLTEL Wireless of Wisconsin RSA #7, LLC for Designation as an Eligible Telecommunications Carrier (ETC) in Wisconsin*, 7131-T1-101, Final Decision (Sept. 30, 2003) ("*Wisconsin PSC Designation Order*").

rural telephone companies' ("Rural ILECs") service areas. On November 21, 2003, Alltel filed a petition at the FCC for consent to redefine certain Rural ILECs' service areas (the "Petition").<sup>3</sup> On December 4, 2003, the FCC sought comment on the Petition.<sup>4</sup> Of particular note to CenturyTel is Alltel's proposal to redefine CenturyTel's service area<sup>5</sup> at the wire center level without first giving CenturyTel an opportunity to reconsider whether it should disaggregate support.

## **II. THE FCC SHOULD NOT ALLOW CENTURYTEL'S SERVICE AREA TO BE CHANGED WITHOUT A WRITTEN COMMISSION DECISION.**

In 1997, the FCC adopted procedural rules that allow a rural carrier's service area definition to be changed without the issuance of a written FCC decision demonstrating that the FCC actually considered the Federal-State Joint Board's recommendations before adopting the new service area definition. Specifically, Section 54.207(c)(3)(ii) of the FCC's rules provides that, if the FCC declines to act on the petition within 90 days of the public notice, the petition will automatically be deemed approved by the FCC.<sup>6</sup> As CenturyTel has argued in prior comments, Section 214(e)(5) of the Communications Act of 1934, as amended (the "Act"), requires the FCC to take into consideration the Federal-State Joint Board's recommendations before changing the service area for a rural telephone company. A written decision is physical

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<sup>3</sup> *Petition of Alltel Communications, Inc. for Consent to Redefine the Service Areas of Rural Telephone Companies in the State of Wisconsin*, filed in CC Docket No. 96-45 on Nov. 21, 2003 ("Petition").

<sup>4</sup> Public Notice.

<sup>5</sup> CenturyTel operates in the state of Wisconsin through twelve subsidiaries, including the following six CenturyTel companies for which Alltel has requested FCC approval to redefine their service areas: CenturyTel of Central Wisconsin, CenturyTel of Northern Wisconsin, CenturyTel of Northwest Wisconsin, CenturyTel of the Midwest-Kendall, CenturyTel of Midwest-Wisconsin, and Telephone USA of Wisconsin, LLC.

<sup>6</sup> 47 C.F.R. § 54.207(c)(3)(ii).

evidence of whether the FCC actually considered the Joint Board's recommendations.

Furthermore, the FCC has an obligation to consider all the arguments made -- both in support of *and* against the Petition. As demonstrated herein, there is considerable debate regarding the merits of the Petition, which the FCC must demonstrate that it has fully considered. The FCC should not allow the Petition to take effect automatically as it has done in the past.<sup>7</sup>

### **III. THE COMMISSION SHOULD DENY ALLTEL'S PETITION TO REDEFINE CENTURYTEL'S SERVICE AREA AT THE WIRE CENTER LEVEL.**

Redefining CenturyTel's service area at the wire center level would allow Alltel to qualify for universal service funding by serving any one of CenturyTel's wire centers in that study area. If the Commission allows Alltel to serve only one wire center and receive support based on CenturyTel's costs, Alltel would have a strong incentive to serve only the lowest cost wire centers and to ignore the relatively high-cost wire centers. Allowing Alltel to pick and choose which wire centers to serve inevitably will lead to cherry picking and will remove all likelihood that competition will ever reach other than CenturyTel's lowest cost wire centers. Thus, the public interest dictates that the Commission should deny grant of Alltel's Petition as contrary to the public interest.

### **IV. THE FCC SHOULD NOT REDEFINE CENTURYTEL'S SERVICE AREA WITHOUT GIVING CENTURYTEL THE OPPORTUNITY TO RE-EVALUATE WHETHER IT SHOULD DISAGGREGATE SUPPORT IN LIGHT OF A COMPETITIVE ETC BEING DESIGNATED IN ITS TERRITORY.**

The Commission should deny or postpone action on Alltel's Petition to redefine CenturyTel's service area at the wire center level, until CenturyTel is given the opportunity to re-evaluate whether to disaggregate support at the wire center level also. Allowing CenturyTel the

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<sup>7</sup> See Application for Review or, Alternatively, Petition for Reconsideration of CenturyTel of Eagle, Inc. filed in CC Docket 96-45 on Dec. 17, 2002.

opportunity to re-evaluate its disaggregation decision is consistent with the Wisconsin PSC Designation Order, in which the PSC stated that it “may allow a company to change paths when a competitive ETC is designated in a rural company’s territory.”<sup>8</sup> On May 15, 2002, pursuant to Path One of the *RTF Order*,<sup>9</sup> CenturyTel elected not to disaggregate support in the state of Wisconsin.<sup>10</sup> Based on CenturyTel’s careful analysis at that time of a number of factors, including the level of competition in the market, customer density, costs, and the amount of available support, this was a sensible decision not to expend resources unnecessarily. Consequently, CenturyTel does not receive federal universal service support payments based on its individual wire center costs but instead based on its average per-line costs for the entire study area. If Alltel were allowed to receive high-cost support based on CenturyTel’s average cost of serving all the wire centers in the study area, Alltel may receive artificially inflated support in some wire centers, while declining to serve the higher-cost wire centers.

CenturyTel urges the Commission to ensure that Alltel does not receive high-cost universal service support until after CenturyTel has had an opportunity to re-evaluate whether to de-average support, in light of the Alltel’s Petition to break up the Rural ILEC service area into individual wire center-sized service areas for purposes of obtaining federal support. As the Commission stated in the *RTF Order*, “the level of disaggregation of support should be considered in determining whether to certify new [ETCs] for a service area other than a rural

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<sup>8</sup> Wisconsin PSC Designation Order at 12.

<sup>9</sup> *Federal-State Joint Board on Universal Service, CC Docket No. 96-45, Fourteenth Report and Order and Twenty-Second Order on Reconsideration, Multi-Association Group (MAG) Plan for Regulation of Interstate Services of Non-Price Cap Incumbent Local Exchange Carriers and Interexchange Carriers, Report and Order, 16 FCC Rcd 11244 (2001) (“RTF Order”).*

<sup>10</sup> *Id.* at 11303 ¶ 148.

carrier's entire study area to ensure that competitive neutrality is maintained between incumbent carriers and competitive [ETCs]."<sup>11</sup>

The Commission also noted in the *RTF Order*, that if, after a carrier has chosen a disaggregation plan, as is the case here, "a state receives a request to require a carrier to disaggregate and target support," the Commission expects that the state "will be guided in making a determination on the request by [the Commission's] view that support should generally be disaggregated and targeted in a manner that the per-line level of support is more closely aligned with the cost of providing service."<sup>12</sup> Because support continues to be based on CenturyTel's cost of providing service to the *entire* study area, the Petition fails to ensure that support is aligned with costs. This failure could inure an unfair competitive advantage to Alltel.

To provide greater certainty and to discourage cream-skimming, CenturyTel urges the Commission either to grant CenturyTel the opportunity to evaluate whether it should disaggregate support at a more granular level, as described above, or, in the alternative, require Alltel to serve CenturyTel's entire study area.

**V. ALLTEL COULD SERVE THE ENTIRE TERRITORY OF THE RURAL ILECS THROUGH A COMBINATION OF FACILITIES.**

In the state ETC designation proceeding, the Wisconsin PSC conditionally granted Alltel's request to be designated as an ETC for parts of the territory of a rural telephone company, pending the FCC's approval of the proposed redefinition.<sup>13</sup> Pursuant to the Wisconsin PSC Designation Order and Alltel's Petition, the CMRS carrier would not be required to serve

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<sup>11</sup> *Id.* at 11308 ¶164.

<sup>12</sup> *Id.* at 11303 ¶148.

<sup>13</sup> *Wisconsin PSC Designation Order* at 10.

the study areas of the Rural ILECs in their entirety, either using its own facilities or a combination of its own facilities and resale of another carrier's services, as required by the Act and the FCC's rules.<sup>14</sup> The Wisconsin PSC nevertheless concluded that designating Alltel as a competitive ETC would serve the public interest, in part, because it will increase competition in those areas served by the Rural ILECs.

The Wisconsin PSC Designation Order, however, does not satisfy the public interest standard set forth in Section 214(e) of the Act. Significantly, Alltel's Petition will not bring rural consumers the increased competitive choice that the Wisconsin PSC anticipates it will. The Petition does not assert that Alltel is a new service provider in CenturyTel's study area. Nor does the Petition require Alltel to provide service throughout CenturyTel's study area, thereby truly bringing competitive choice to *all* customers not now served by Alltel. The Wisconsin PSC failed to analyze the impact of redefining the Rural ILECs' service area on competitive ETCs' incentives to serve only the more profitable exchanges. Yet, the lack of facilities does not preclude competitive ETCs from serving the ILEC's entire study area. Alltel can and should be required to expand its coverage to serve the Rural ILECs' entire study areas through some combination of its own facilities and resale of another carrier's services.

**VI. ALLTEL SHOULD BE REQUIRED TO COMPLY WITH STATE REQUIREMENTS REGARDLESS OF WHETHER IT SEEKS STATE UNIVERSAL SERVICE SUPPORT.**

In the state designation proceeding, the Wisconsin PSC concluded that Alltel shall not be subject to Wisconsin's state requirements and obligations because Alltel does not intend

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<sup>14</sup> 47 U.S.C. § 214(e)(5); 47 C.F.R. § 54.201(d)(1).

to apply for state universal service support.<sup>15</sup> As CenturyTel has advocated previously, a competitive ETC (“CETC”) should be required to comply with the same state requirements as the carrier-of-last-resort or the ILEC serving the area for which the CETC seeks *federal or state* universal service support.<sup>16</sup> Subjecting CETCs and ILECs to different rules inures an unfair competitive advantage to CETCs. Accordingly, Alltel should be required to comply with the same *state* requirements as CenturyTel regardless of whether Alltel applies for state universal service support.

**VII. REDEFINITION OF THE RURAL ILECS’ SERVICE AREAS BEFORE THE FCC RESOLVES THE ISSUES RAISED IN THE CETC PROCEEDING IS PREMATURE.**

CenturyTel believes that redefining the Rural ILECs’ service areas in the manner proposed by Alltel is premature. The Commission has before it a number of requests to modify rural service areas for competitive ETCs that do not desire to serve the entire study area of the rural LEC on whose federal universal support they desire to draw.<sup>17</sup> CenturyTel has faced redefinition of its service area in several states, and, despite strong opposition by CenturyTel and others, the requests for redefinition are invariably granted with only a cursory public interest analysis. Most recently, the Commission approved the redefinition of CenturyTel service areas in Alabama and Colorado, so that each CenturyTel wire center is a separate service area for

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<sup>15</sup> *Wisconsin PSC Designation Order* at 5-6.

<sup>16</sup> Letter from Karen Brinkmann to Secretary Dortch filed November 18, 2003 (Notice of *Ex Parte* Presentation in CC Docket No. 96-45) at 5.

<sup>17</sup> *Pleading Cycle Established for Comments Regarding Applications for Review of Orders Designating Eligible Telecommunications Carriers in the State of Alabama*, FCC Public Notice in CC Docket 96-45 (rel. Jan. 10, 2003); *Pleading Cycle Established for Comments on Proceeding Regarding the Definition of the Rural Service Areas of Two Rural Telephone Companies in the State of Colorado*, FCC Public Notice in CC Docket 96-45, DA 03-26 (rel. Jan. 7, 2003).

competitive ETCs.<sup>18</sup> In Colorado, the service area redefinition went into effect without the Commission even issuing an order and, in both Colorado and Alabama, the Commission is reviewing its decisions to approve the service area redefinitions.<sup>19</sup> Commission precedent demonstrates that service area redefinitions have broad applications and lower the bar for *all* subsequent competitive ETC designations in the rural carrier's service area with little tangible benefit for rural customers who live in those service areas.<sup>20</sup> This outcome, however, is contrary to Section 214(e) of the Act, which requires that each rural ETC designation must be reviewed and granted only if determined to be in the public interest.

Both the Petition and the Wisconsin PSC Designation Order claim that redefining the Rural ILECs' service areas serves the public interest. Neither the Petition nor the Wisconsin PSC Designation Order proposes to bring any "new competition" to the market, however. Rather, the Petition will result in a windfall in federal support to Alltel for doing exactly what the carrier is doing today without support. Because Alltel has not demonstrated any interest or initiative in seeking ways to serve the entire Rural ILECs' study areas, the Petition appears to be a filing of convenience for Alltel rather than a filing that will promote universal service to rural

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<sup>18</sup> Public Notice, *Pleading Cycle Established for Comments on Proceeding Regarding the Definition of the Rural Service Areas of Two Rural Telephone Companies in the State of Colorado*, DA 03-26, CC Docket No. 96-45 (Wireline Comp. Bur. rel. Jan. 7, 2003) ("*Colorado Review PN*") (stating that the petition had been deemed granted 90 days from that the Colorado petition to redefine CenturyTel's service area was placed on public notice); *RCC Alabama ETC Order* at ¶ 16; *Federal State Joint Board on Universal Service, Cellular South Alabama ETC Order* at ¶ 18.

<sup>19</sup> See Public Notice, *Pleading Cycle Established for Comments Regarding Applications for Review of Orders Designating Eligible Telecommunications Carriers in the State of Alabama*, DA 03-45, CC Docket No. 96-45 (Wireline Comp. Bur. rel. Jan. 10, 2003); *Colorado Review PN* at 1.

<sup>20</sup> *Cellular South Alabama ETC Order* at ¶ 2 (holding that the CETC applicant's request to redefine CenturyTel's service area to the wire center level was "moot," because the Commission has "recently agreed to a redefinition of the service areas of these rural telephone companies").



Wisconsin customers. CenturyTel has filed extensive comments in this docket<sup>21</sup> and given testimony to the Joint Board on Universal Service,<sup>22</sup> arguing for clear federal standards for redefinitions such as the instant one. CenturyTel urges the Commission to postpone decision on this so it may benefit from the recommendations of the Joint Board in the pending rulemaking proceeding.<sup>23</sup> Deferring a decision for the brief period until the Commission receives the Joint Board's recommendations will help ensure that the Commission does not redefine any rural ILEC's service area in a manner inconsistent with the Commission's rules.

## VIII. CONCLUSION

CenturyTel opposes the Petition to redefine CenturyTel's service area at the wire center level. As an initial matter, CenturyTel notes that the FCC should not allow CenturyTel's service area to be changed without a written FCC decision. With respect to the merits of the Petition, the Commission either should allow CenturyTel the opportunity to re-evaluate whether to disaggregate support at the wire center level, or require Alltel to serve CenturyTel's entire study area. Anything short of this would allow Alltel an unfair competitive advantage.

Furthermore, Alltel should be required to comply with the same state requirements as the carrier-of-last-resort or the ILEC serving the area Alltel seeks to serve regardless of whether Alltel

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<sup>21</sup> Letter from Karen Brinkmann to Secretary Dortch filed December 30, 2002 (Notice of *Ex Parte* Presentation in CC Docket No. 96-45) at 2; Comments of CenturyTel, Inc., CC Docket 96-45, filed May 5, 2003; Reply Comments of CenturyTel, Inc., CC Docket 96-45, filed June 3, 2003; Letter from Karen Brinkmann to Secretary Dortch filed November 18, 2003 (Notice of *Ex Parte* Presentation in CC Docket No. 96-45) at 5.

<sup>22</sup> Prepared Testimony of Jeff Glover, Vice President of CenturyTel, Inc., on Behalf of Independent Telephone & Telecommunications Alliance, Before the Federal-State Joint Board on Universal Service, CC Docket 96-45, filed July 22, 2003.

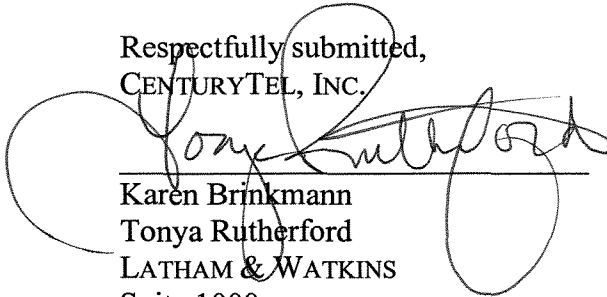
<sup>23</sup> Public Notice, *Federal-State Joint Board on Universal Service Seeks Comment on Certain of the Commission's Rules Relating to High-Cost Universal Service Support and the ETC Designation Process*, FCC 03J-1, CC Docket No. 96-45 (rel. Feb. 7, 2003) ("*CETC Proceeding*").

actually seeks state universal service support. Finally, CenturyTel urges the Commission to delay the redefinition of the Rural ILECs' service areas until the Commission resolves the issues raised in the CETC proceeding.

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Respectfully submitted,  
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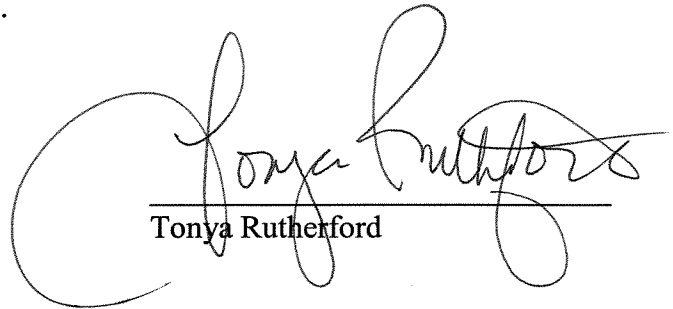
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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing Comments was sent by 1<sup>st</sup> Class US mail, this 19th day of December 2003, to:

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